



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	<b>04/08/99</b>	Bill No:	<b>SB 677</b>
Tax:	<b>Sales and Use</b>	Author:	<b>Polanco</b>
Board Position:	<b>Neutral</b>	Related Bills:	

### **BILL SUMMARY:**

This bill would exempt from *state* sales and use tax beginning January 1, 2000 and ending December 31, 2004, sales of transit vehicles to the Los Angeles County Metropolitan Transportation Authority (MTA).

### **ANALYSIS:**

#### Current Law:

Under existing law, the sales tax is imposed on retailers for the privilege of selling tangible personal property at retail. The use tax is imposed upon the storage, use, or other consumption in this state of tangible personal property purchased from a retailer. Either the sales tax or the use tax applies with respect to all sales or purchases of tangible personal property, unless that property is specifically exempted from tax. Current law does not contain an exemption for transit vehicles sold to the MTA. Therefore, when the MTA purchases a transit vehicle for use in their operations, tax applies to the purchase price of that vehicle.

The rate of tax currently applicable to sales of vehicles, and to sales of virtually any other type of tangible personal property not otherwise exempt, is made up of various components:

- 5 percent state tax allocated to the state's General Fund (Section 6051).
- ½ percent state tax allocated to the Local Revenue Fund which is dedicated to local governments for program realignment (Section 6051.2).
- ½ percent state tax allocated to the Local Public Safety Fund which is dedicated to local governments to fund public safety services (Sec. 35, Article XIII of the California Constitution).
- 1 ¼ percent Bradley-Burns Uniform Local Sales and Use Tax which is allocated to cities and counties (Part 1.5, commencing with Section 7200).
- 1/8 to 1 ¼ percent Transactions and Use Tax which is allocated to special taxing jurisdictions in various counties and cities within the state (Part 1.6, commencing with Section 7252).

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Proposed Law:

This bill would add Section 6368.9 to the Sales and Use Tax Law to specify that the gross receipts from sales of transit vehicles, as defined in Section 99501 of the Public Utilities Code, to the MTA, are exempt from the computation of the sales and use tax. The proposed exemption would not apply, however, with respect to any tax levied under the authority of the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law. As currently written, the proposed exemption would apply to the state tax allocated to the Local Revenue Fund and the Local Public Safety Fund. Therefore, the exemption would apply to the 6 percent state tax rate.

Section 99501 of the Public Utilities Code defines a transit vehicle to mean a vehicle, including, but not limited to, one operated on rails or tracks, which is used for public transportation service and which carries more than 10 persons, including the driver.

The bill would become operative on the first day of the calendar quarter commencing more than 90 days after the bill is enacted. The bill contains language providing that the proposed exemption would apply to sales during the period January 1, 2000, to December 31, 2004, inclusive. The bill also contains language that repeals the proposed statute as of January 1, 2005.

Background:

In 1994, the Labor/Community Strategy Center, Bus Riders Union, Southern Christian Leadership Conference of Greater Los Angeles, the Korean Immigrant Workers Advocates and other bus riders in Los Angeles County brought a lawsuit against the MTA on behalf of the class of predominately minority transit-dependent bus riders in Los Angeles County seeking relief under the Civil Rights Act of 1964. The plaintiffs challenged the allegedly discriminatory impact of the MTA's decisions to increase bus fares, cut bus passes and divert funds from the bus system in order to finance and construct a subway and light rail system. The parties agreed to settle the litigation and a Consent Decree was approved by the Federal District Court on October 29, 1996. The Consent Decree provided that a Special Master be appointed to resolve any issues regarding compliance with the Consent Decree.

The Consent Decree required the MTA to add additional transit vehicles to their mass transit fleet. The original Consent Decree requires MTA to purchase 1,637 transit vehicles during the five-year period 2000 through 2004. The Special Master has issued a Memorandum Decision and Order requiring the purchase of an additional 532 transit vehicles. The Memorandum Decision and Order issued by the Special Master is not yet final, as MTA still has the option of appealing that order.

**COMMENTS:**

1. Sponsor and Purpose. According to the author's office, the purpose of this measure is to create an exemption for sales of transit vehicles to the MTA. The savings realized by the MTA would allow them to purchase additional transit vehicles. The Los Angeles County Metropolitan Transportation Authority is the sponsor of this measure.

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2. Partial exemption applies to 6 percent, not 5 percent state tax. As originally written, the proposed exemption applied only to the 5 percent state tax rate. As amended, the proposed exemption applies to the 6 percent state tax rate. This results in a loss of revenue for the Local Revenue Fund and Local Public Safety Fund. According to the author's office, this was an oversight and the bill will be amended so the exemption applies only to the 5% state tax rate.
3. Exemption would complicate retailers' reporting responsibilities. The bill would exempt only the state portion of the sales tax rate. Under the current structure of the Sales and Use Tax Law, there are two exemptions from the sales and use tax where the local and district taxes remain applicable (Section 6377 and Section 6378). The type of retailers affected by this bill most likely have not dealt with the two partial exemptions currently allowed by law. Therefore, additional retailers would be burdened with additional record keeping and segregations which would be required for purposes of reporting the correct amount of sales and use tax and any applicable transactions and use taxes. These segregations have the possibility of increasing reporting errors and confusion. However, the number of retailers expected to be affected by this proposal is small.
4. Definition of transit vehicles. The proposal allows a partial tax exemption on purchases of transit vehicles, as defined in Section 99501 of the Public Utilities Code. That definition would include busses and rail cars. This would allow the MTA to purchase new subway trains or light rail trains with a partial tax exemption. Purchases of this type of property are beyond the scope of what the author's office intends. A more strict definition of the property that qualifies for the partial exemption is recommended.

**COST ESTIMATE:**

Some costs would be incurred in notifying affected retailers, answering inquiries, and revising appropriate tax return forms and instructions. Due to the limited number of potential retailers affected by this proposed exemption, these costs would be absorbable.

**REVENUE ESTIMATE:**

The original Consent Decree requires MTA to purchase 1,637 transit vehicles during the five-year period 2000 through 2004. MTA has estimated that the state sales tax at a 5 percent rate on these purchases will amount to \$33 million. The Memorandum Decision and Order issued by the Special Master requiring the purchase of an additional 532 transit vehicles would result in state sales tax at a 5 percent rate of \$10 million.

Exempting the purchases of transit vehicles by the Los Angeles County Metropolitan Transportation Authority during the five year period commencing on January 1, 2000 and continuing through December 31, 2004 from the 5 percent state sales and use tax would result in a revenue loss of between \$33 and \$43 million.

MTA has indicated that SB 677 will be amended to exempt the purchases of the transit vehicles from the sales and use tax and that these purchases will be exempt only from the

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5% state sales and use tax and not from the Public Safety Fund or the Local Revenue Fund. The above estimate reflects that proposed amendment.

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